



May 30, 2019

Chairman Ajit Pai
Commissioner Michael O’Rielly
Commissioner Brendan Carr
Commissioner Jessica Rosenworcel
Commissioner Geoffrey Starks

Federal Communications Commission
445 12th Street, SW
Washington, D.C. 20554

Re: Draft Declaratory Ruling, CG Docket No. 17-59, WC Docket No. 17-97

Dear Chairman and Commissioners:

Internet Association¹ (IA) supports the Commission’s efforts to combat unlawful robocalls and commends it for prioritizing consumer protection against illegal calls. It is in the interests of all parties, and especially consumers, that the public telephone network be trusted and reliable.

The challenge that policymakers and stakeholders face is to both root out illegal calls *and* uphold the reliability that consumers and businesses alike have come to expect; namely, that when a lawful call is made, the telephone company will deliver it. The draft *Declaratory Ruling*, while well-intentioned, focuses on the rooting out of illegal calls without deliberation as to how to maintain lawful call completion and reliability.² In short, IA is concerned that if adopted in its current form, the *Declaratory Ruling* will lead to wide-scale, erroneous blocking of lawful calls to consumers.

Today, it is well understood that voice service providers may and are encouraged to offer consumers tools that can help them avoid illegal calls, including illegal robocalls. Some consumers may choose to use tools that risk excessive blocking because they want to be assured that any potential robocall is screened out. Thus they are willing to risk lawful calls being blocked – even robocalls used for things like school closings and appointment reminders. Other consumers may choose to use more tailored tools, or no blocking tools at all, because they worry about missing lawful calls, including communications for security purposes such as two-factor authentication. The *Declaratory Ruling*, however, would encourage carriers to employ call-blocking analytics that determine what consumers want or don’t want, without reference to individual preferences and priorities.³

Since the release of the *Declaratory Ruling*, multiple parties have documented ways in which providers’ default blocking of “unwanted” calls using potentially “reasonable” analytics will lead to the unintentional blocking of calls that most consumers want to receive.⁴ Even if a reasonably reliable

¹ Internet Association represents leading internet companies. A full list of IA’s member’s can be found here: <https://internetassociation.org/our-members/>.

² *Advanced Methods to Target and Eliminate Unlawful Robocalls*, Declaratory Ruling and Third Further Notice of Proposed Rulemaking, FCC-CIRC1906-01, CG Docket No. 17-59, WC Docket No. 17-97 (May 16, 2019) (“draft *Declaratory Ruling*”).

³ Carriers acting in good faith could block lawful calls, given the untested nature of default blocking algorithms.

⁴ Examples include: emergency alert companies providing mass notifications in times of crisis or school districts sending alerts regarding closures to parents; ride-share companies notifying riders of their driver’s arrival; and companies using phone calls for two-factor authentication purposes.



methodology could be developed, there remains the risk that inevitable errors will particularly disadvantage certain voice service providers and their users. This concern is especially acute given ambiguity in the draft order as to the intended scope of “unwanted” calls and, therefore, the categories of calls that permissibly could be blocked. With these realities before it, the Commission should not adopt the *Declaratory Ruling* in its current form. Instead, the Commission should:

1. Revise the *Declaratory Ruling* to clarify that carriers may block unlawful calls on a default basis using reasonable analytics that can reasonably be expected to block only unlawful calls.
2. Require that the voice service provider’s call analytics be applied in a nondiscriminatory, competitively-neutral manner with a transparent process for prospectively correcting any blocking of lawful calls. Call recipients likewise should have a free, easy-to-use mechanism for quickly learning which of their calls have been blocked, so that they may make an informed choice as to whether to allow continued blocking by the voice service provider. Similarly, voice service providers should be required to provide an indication at the network level when a call is blocked by, for example, returning a specific SIP or Integrated Services Digital Network User Part response code.

Internet Association stands with the Commission in the fight against unlawful robocalls. Stopping unlawful calls *and* ensuring lawful calls get to consumers is neither easy nor simple. But achieving *both* goals is essential. We look forward to continuing to work with the Commission and other stakeholders to help solve the robocall problem.

Sincerely,

A handwritten signature in black ink, appearing to read 'Michael Beckerman'.

Michael Beckerman
President and CEO